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Subpart 1802.1—Definitions

1802.101 Definitions.

Administrator means the Administrator or Deputy Administrator of NASA.

Contracting activity in NASA includes the NASA Headquarters installation and the following field installations: Ames Research Center, Dryden Flight Research Center, Goddard Space Flight Center, Johnson Space Center, Kennedy Space Center, Langley Research Center, Lewis Research Center, Marshall Space Flight Center, Space Station Program Office and Stennis Space Center.

Head of the agency or *agency head* means the Administrator or Deputy Administrator of NASA.

Head of the contracting activity means, for field installations, the Director or other head and, for NASA Headquarters, the Associate Administrator for Headquarters Operations.

NASA Acquisition Internet Service (NAIS) means the Internet service (URL: <http://procurement.nasa.gov>) NASA uses to broadcast its business opportunities, procurement regulations, and associated information.

Procurement officer means the chief of the contracting office, as defined in FAR 2.101.

Senior Procurement Executive means the Associate Administrator or Deputy Associate Administrator for Procurement, Office of Procurement, NASA Headquarters (Code H).

[61 FR 40537, Aug. 5, 1996, as amended at 63 FR 9953, Feb. 27, 1998]

PART 1803—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

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SOURCE: 61 FR 40537, Aug. 5, 1996, unless otherwise noted.

Subpart 1803.1—Safeguards

1803.101 Standards of conduct.

1803.101-1 General.

The statutory prohibitions and their application to NASA personnel are discussed in the Standards of Ethical Conduct for Employees of the Executive Branch, 5 CFR part 2635, and the Supplemental Standards of Ethical Conduct for Employees of the National Aeronautics and Space Administration, 5 CFR part 6901. All NASA personnel involved in acquisitions shall become familiar with these statutory prohibitions. Any questions concerning them shall be referred to legal counsel. In addition to criminal penalties, the

statutes provide that transactions entered into in violation of these prohibitions are voidable (18 U.S.C. 218).

[61 FR 40537, Aug. 5, 1996, as amended at 62 FR 14016, Mar. 25, 1997]

1803.101-2 Solicitation and acceptance of gratuities by Government personnel.

Any suspected violations shall be reported promptly to the installation's Office of Inspector General.

[61 FR 40537, Aug. 5, 1996, as amended at 62 FR 14016, Mar. 25, 1997]

1803.104 Procurement integrity.

[62 FR 36704, July 9, 1997]

1803.104-3 Definitions.

Agency ethics official means for Headquarters, the General Counsel and the Associate General Counsel for General Law, and for each center, the Chief Counsel.

[62 FR 36704, July 9, 1997]

1803.104-5 Disclosure, protection, and marking of proprietary and source selection information. (NASA supplements paragraphs (a) and (c))

(a) Government employees serving in the following positions are authorized access to proprietary or source selection information, but only to the extent necessary to perform their official duties:

(i) Personnel participating in source evaluation board (SEB) procedures (see 1815.370) or personnel evaluating an offeror's or bidder's technical or cost proposal under other competitive procedures and personnel evaluating protests.

(ii) Personnel assigned to the contracting office.

(iii) The initiator of the procurement request (to include the official having principal technical cognizance over the requirement).

(iv) Small business specialists.

(v) Personnel assigned to counsel's office.

(vi) Personnel assigned to the Defense Contract Audit Agency and contract administration offices of the Department of Defense.

(vii) Personnel responsible for the review and approval of documents in ac-

cordance with the Master Buy Plan Procedure in Subpart 1807.71.

(viii) Other Government employees authorized by the contracting officer.

(ix) Supervisors, at any level, of the personnel listed in paragraphs 1803.104-5(a) (i) through (viii).

(x) Duly designated ombudsman.

(c)(i) The originator of information that may be source selection information shall consult with the contracting officer or the procurement officer, who shall determine whether the information is source selection information. NASA personnel responsible for preparing source selection information as defined in FAR 3.104-3 shall assure that the material is marked with the legend in FAR 3.104-5(c) at the time the material is prepared.

(ii) Unless marked with the legend "SOURCE SELECTION INFORMATION—SEE FAR 3.104," draft specifications, purchase descriptions, and statements of work are not considered source selection information and may be released during a market survey in order to determine the capabilities of potential competitive sources (see FAR Subpart 7.1). All documents, once released, must remain available to the public until the conclusion of the acquisition.

[62 FR 36704, July 9, 1997, as amended at 63 FR 9966, Feb. 27, 1998]

1803.104-10 Violations or possible violations. (NASA supplements paragraphs (a), (b) and (f))

(a)(1) The Procurement Officer is the individual designated to receive the contracting officer's report of violations.

(b) The head of the contracting activity (HCA) or designee shall refer all information describing an actual or possible violation to the installation's counsel and inspector general staff and to the Associate Administrator for Procurement (Code HS).

(f) When the HCA or designee determines that award is justified by urgent and compelling circumstances or is otherwise in the interest of the Government, then that official shall submit a copy of the determination to the

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Associate Administrator for Procurement (Code HS) simultaneous with transmittal to the Administrator.

[62 FR 36704, July 9, 1997]

Subpart 1803.2—Contract or Gratuities to Government Personnel

1803.203 Reporting suspected violations of the Gratuities clause.

Any suspected violations of the clause at FAR 52.203-3, Gratuities, shall be reported to the installation's Office of Inspector General.

Subpart 1803.3—Reports of Suspected Antitrust Violations

1803.303 Reporting suspected anti-trust violations. (NASA supplements paragraphs (b) and (d))

(b)(i) When offers are received that, in the opinion of the contracting officer, indicate possible antitrust violations, the contracting officer shall report the circumstances to the General Counsel, NASA Headquarters, through the Office of Procurement (Code HS). Reports should not be submitted automatically but only when there is reason to believe the offers may not have been arrived at independently. These reports shall be submitted with conformed copies of bids or proposals, contract documents, and other supporting data, and shall set forth—

(A) The noncompetitive pattern or situation under consideration;

(B) Purchase experience in the same product or service for a reasonable period (one or more years) preceding receipt of the offers under consideration, including unit and total contract prices and abstracts of bids;

(C) Community of financial interest among offerors, insofar as it is known;

(D) The extent, if any, to which specification requirements or patents restrict competition;

(E) Any information available about the pricing system employed in offers believed to reflect noncompetitive practices; and

(F) Any other pertinent information.

(ii) Evidence of practices that, in the opinion of the General Counsel, NASA Headquarters, may violate the anti-

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trust laws shall be forwarded to the Attorney General of the United States (see FAR 3.303).

(d) The contracting officer shall submit the identical bid report required by FAR 3.303(d) to NASA Headquarters, Office of Procurement (Code HS). The report shall include the reasons for suspecting collusion. Code HS shall forward a copy to the NASA Office of the Inspector General.

Subpart 1803.5—Other Improper Business Practices

1803.502 Subcontractor kickbacks.

Contracting officers shall report suspected violations of the Anti-Kickback Act in accordance with 1809.470.

Subpart 1803.6—Contracts With Government Employees or Organizations Owned or Controlled by Them

1803.602 Exceptions.

The Associate Administrator for Procurement has been delegated the authority to authorize an exception to the policy in FAR 3.601. The Associate Administrator for Procurement has re-delegated this authority to the heads of contracting activities (HCAs) for individual actions in the aggregate of \$100,000 and below, inclusive of follow-on acquisitions, with concurrence by the HCA's Office of Chief Counsel. All requests above the HCA's authority shall be forwarded to the Associate Administrator for Procurement (Code HS) for approval.

Subpart 1803.7—Voiding and Rescinding Contracts

1803.704 Policy. (NASA supplements paragraph (a))

(a) The Associate Administrator for Procurement has been delegated authority to void or rescind contracts when there is a final conviction for violation of 18 U.S.C. 201-224 (Bribery, Graft and Conflicts of Interest) relating to them.

1803.705 Procedures.

Procurement officers shall make reports to the Associate Administrator

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for Procurement (Code HS). The Associate Administrator for Procurement is responsible for the actions, notices, and decisions required by FAR 3.705(c), (d), and (e).

Subpart 1803.8—Limitation on the Payment of Funds to Influence Federal Transactions

1803.804 Policy

Procurement officers shall forward one copy of each Disclosure of Lobbying Activities (SF-LLL) furnished pursuant to FAR 3.803 to the Office of Procurement (Code HS). The original shall be retained in the contract file. Forms shall be submitted semi-annually by April 15th for the six-month period ending March 31st, and by October 15th for the period ending September 30th.

1803.806 Processing suspected violations.

The Associate Administrator for Procurement (Code HS) is the designated official to whom suspected violations of the Act shall be referred.

PART 1804—ADMINISTRATIVE MATTERS

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